

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

AYERS, et al CIVIL ACTION NO. 10-925 (lead case)  
VERSUS DISTRICT JUDGE JAMES T. TRIMBLE  
ANR PIPELINE COMPANY, MAGISTRATE JUDGE JAMES D. KIRK  
et al

REPORT AND RECOMMENDATION

Before the court is defendants' motion to dismiss (doc. #34) certain plaintiffs for failure to comply with this court's Order compelling discovery issued February 16, 2011. Defendants assert that, despite this court's having granted its motion to compel, doc. #21, certain plaintiffs have still failed to answer discovery or have provided incomplete or meaningless answers by, among other things and for example, describing medical conditions without specifying to which plaintiff the condition relates.

This court granted the motion to compel by order dated February 16, 2011 (doc. #23) and specifically warned the plaintiffs that the deadline in the Order must be complied with in default of which the plaintiffs' claims could be dismissed. The court specifically impressed upon the parties the importance of complying with the deadline. No objections to the discovery have been filed or voiced. No request for extension of time has been filed by them. Further, the plaintiffs who have failed to answer discovery have failed to file an opposition to the motion to dismiss or to attempt

in any way to assist the court in its resolution. Instead, those plaintiffs have chosen to simply ignore a clear, specific and lawful Order of this court and one which made a point of the importance of timely compliance with the Order.

Plaintiffs will not be allowed to prosecute their cases in this court and, at the same time, refuse to provide discovery to defendants concerning those claims. Those plaintiffs' cases should be dismissed with prejudice.

For the foregoing reasons, IT IS RECOMMENDED that the cases of the non-complying plaintiffs be dismissed with prejudice and that the proposed Order attached to doc. # 34 be signed by the district judge.

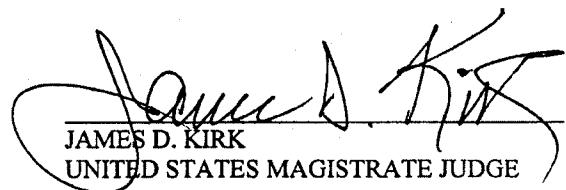
#### OBJECTIONS

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have fourteen (14) calendar days from service of this Report and Recommendation to file specific, written objections with the clerk of court. No other briefs or responses (such as supplemental objections, reply briefs etc.) may be filed. Providing a courtesy copy of the objection to the magistrate judge is neither required nor encouraged. Timely objections will be considered by the district judge before he makes his final ruling.

**FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS,  
CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN**

**FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UN-OBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.**

THUS DONE AND SIGNED in chambers, in Alexandria, Louisiana, on this 1<sup>st</sup> day of June, 2011.



JAMES D. KIRK  
UNITED STATES MAGISTRATE JUDGE